



OFFICE OF THE POLICE COMMISSIONER
ONE POLICE PLAZA • ROOM 1400

September 20, 2013

Memorandum for: Deputy Commissioner, Trials

CHAN

Re: **Police Officer Donald Hook**
Tax Registry No. 920400
Bronx Court Section
Disciplinary Case No. 2011-3500

The above named member of the service appeared before Deputy Commissioner Martin G. Karopkin on August 12, 2013 and was charged with the following:

DISCIPLINARY CASE NO. 2011-3500

1. Said Police Officer Donald Hook, while assigned to the Medical Division's Bronx Medical Clinic, on or about twelve (12) occasions between June 7, 2010 and August 26, 2010, wrongfully made or caused to be made false entries in the Sign-In Log regarding the times he arrived at or left work.

P.G. 203-05, Page 1, Paragraph 4

**PERFORMANCE ON DUTY – GENERAL
GENERAL REGULATIONS**

2. Said Police Officer Donald Hook, while assigned to the Medical Division's Bronx Medical Clinic, on or about twelve (12) occasions between June 7, 2010 and August 26, 2010, improperly was late or left early for his scheduled tours of duty, totaling approximately thirteen (13) hours and forty (40) minutes for which said Police Officer improperly was paid.

P.G. 203-05, Page 1, Paragraph 4

**PERFORMANCE ON DUTY – GENERAL
GENERAL REGULATIONS**

3. Said Police Officer Donald Hook, while assigned to the Medical Division's Bronx Medical Clinic, on or about twelve (12) occasions between June 7, 2010 and August 26, 2010, having been improperly late to work or left early for his scheduled tours of duty, did fail and neglect to submit Leave of Absence Reports (PD433-041) for said unauthorized absences, as required.

P.G. 203-20, Page 1, Paragraph 20

**AUTHORIZED LEAVE
GENERAL REGULATIONS**

4. Said Police Officer Donald Hook, while assigned to the Medical Division's Bronx Medical Clinic, on or about July 20, 2010 and August 24, 2010, having reported late for work, improperly submitted Overtime Reports (PD 138-064) requesting overtime. P.G. 203-05, Page 1, Paragraph 4

**PERFORMANCE ON DUTY – GENERAL
GENERAL REGULATIONS**

5. Said Police Officer Donald Hook, while assigned to the Medical Division's Bronx Medical Clinic, on or about July 20, 2010 and August 24, 2010, having reported late for work, improperly requested overtime totaling two (2) hours and seven (7) minutes for which said Police Officer improperly was paid at an overtime rate.

P.G. 203-05, Page 1, Paragraph 4

**PERFORMANCE ON DUTY – GENERAL
GENERAL REGULATIONS**

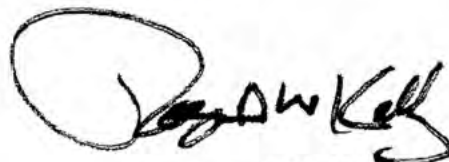
6. Said Police Officer Donald Hook, while assigned to the Medical Division's Bronx Medical Clinic, on or about September 3, 2010, wrongfully made false entries in Department records indicating that another uniformed member of the service visited and was evaluated by a district surgeon on September 3, 2010, and that said surgeon directed said other member of the service to report back to work on September 10, 2010.

P.G. 203-05, Page 1, Paragraph 4

**PERFORMANCE ON DUTY – GENERAL
GENERAL REGULATIONS**

In a Memorandum dated September 4, 2013, Deputy Commissioner Martin G. Karopkin found Police Officer Hook Guilty of Specification Nos. 1, 2, 3, 4, 5, and 6 in Disciplinary Case No. 2011-3500. Having read the Memorandum and analyzed the facts of this matter, I approve the findings, but disapprove the penalty.

Police Officer Hook's acts of misconduct warrant a significant penalty. Therefore, Police Officer Hook shall be offered a post-trial negotiated agreement, in which he shall forfeit forty-five (45) vacation days, his Time and Leave Balances shall be deducted thirteen (13) hours and forty (40) minutes, and he will pay restitution of \$126.63, as a disciplinary penalty. Should Police Officer Hook reject the post-trial negotiated penalty, this Office is to be notified without delay.



Raymond W. Kelly
Police Commissioner



POLICE DEPARTMENT

September 4, 2013

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Donald Hook
Tax Registry No. 920400
Bronx Court Section
Disciplinary Case No. 2011-3500

The above-named member of the Department appeared before me on August 12, 2013, charged with the following:

1. Said Police Officer Donald Hook, while assigned to the Medical Division's Bronx Medical Clinic, on or about twelve (12) occasions between June 7, 2010 and August 26, 2010, wrongfully made or caused to be made false entries in the Sign-In Log regarding the times he arrived at or left work.

P.G. 203-05, Page 1, Paragraph 4 — PERFORMANCE ON DUTY GENERAL
GENERAL REGULATIONS

2. Said Police Officer Donald Hook, while assigned to the Medical Division's Bronx Medical Clinic, on or about twelve (12) occasions between June 7, 2010 and August 26, 2010, improperly was late or left early for his scheduled tours of duty, totaling approximately thirteen (13) hours and forty (40) minutes for which said Police Officer improperly was paid.

P.G. 203-05, Page 1, Paragraph 4 — PERFORMANCE ON DUTY GENERAL
GENERAL REGULATIONS

3. Said Police Officer Donald Hook, while assigned to the Medical Division's Bronx Medical Clinic, on or about twelve (12) occasions between June 7, 2010 and August 26, 2010, having been improperly late to work or left early for his scheduled tours of duty, did fail and neglect to submit Leave of Absence Reports (PD433-041) for said unauthorized absences, as required.

P.G. 203-20, Page 1, Paragraph 20 — AUTHORIZED LEAVE
GENERAL REGULATIONS

4. Said Police Officer Donald Hook, while assigned to the Medical Division's Bronx Medical Clinic, on or about July 20, 2010 and August 24, 2010, having reported late for work, improperly submitted Overtime Reports (PD 138-064) requesting overtime.

P.G. 203-05, Page 1, Paragraph 4 – PERFORMANCE ON DUTY-GENERAL
GENERAL REGULATIONS

5. Said Police Officer Donald Hook, while assigned to the Medical Division's Bronx Medical Clinic, on or about July 20, 2010 and August 24, 2010, having reported late for work, improperly requested overtime totaling two (2) hours and seven (7) minutes for which said Police Officer improperly was paid at an overtime rate.

P.G. 203-05, Page 1, Paragraph 4 PERFORMANCE ON DUTY-GENERAL
GENERAL REGULATIONS

6. Said Police Officer Donald Hook, while assigned to the Medical Division's Bronx Medical Clinic, on or about September 3, 2010, wrongfully made false entries in Department records indicating that another uniformed member of the service visited and was evaluated by a district surgeon on September 3, 2010, and that said surgeon directed said other member of the service to report back to work on September 10, 2010.

P.G. 203-05, Page 1, Paragraph 4 PERFORMANCE ON DUTY-GENERAL
GENERAL REGULATIONS

The Department was represented by David Green, Esq., Department Advocate's Office, and Respondent was represented by John Tynan, Esq.

Respondent, through his counsel, entered a plea of Guilty to the subject charges and testified in mitigation of the penalty. A stenographic transcript of the mitigation record has been prepared and is available for the Police Commissioner's review.

DECISION

Respondent, having pleaded Guilty, is found Guilty as charged.

SUMMARY OF EVIDENCE IN MITIGATION

Respondent testified that he was appointed to the Department on December 8, 1997. After completing the Police Academy, his first assignment was at the 26 Precinct, where he remained for about 11 years. In August 2009, his duty status changed and he was assigned to the Bronx Medical Division where he remained for about a year and a half after which he was assigned to the Medical Division Headquarters in Lefrak City. After about six months he was transferred to his current command, Bronx Central Booking.

The matter for which he was placed on modified assignment in 2009 was resolved by the New York County District Attorney's Office and no action was taken against him. He never received charges for that matter with this Department.

Prior to being assigned to the Bronx medical office he had been there, perhaps once a year, in connection with his own sick leave issues. He did not know Officer Daniel Ryan prior to being assigned to that command but he had seen Sergeant Kenneth Smith there before. Respondent went to that medical office because he lived in Rockland County.

When he was assigned to the Bronx medical office, the first supervisor he met was Smith. He was told that he would be working with one or more doctors and that he would have administrative duties in regard to uniformed members of the service who went sick. He was also told by Smith that his tour was 0600 by 1423. He said he was further told that "Everyone starts at 6:00." Respondent explained that he understood this to mean that everyone signs in at 6:00 am regardless of what time they walk in the door. When asked if other members of the service had been signed in at 6:00am when they

were not physically there, Respondent replied, "There were a lot of things that went on there, you know, during the time I was there and afterwards."

Describing the staffing at the facility, Respondent indicated that there were some officers who "came and went" based on a duty status of medically restricted. He said there were three civilians permanently assigned, five doctors and two to four police officers. Ryan had been assigned to the facility after he was already there.

Describing the arrangement he had with Ryan, Respondent stated that, "If someone was there first, you would make sure everybody got signed in at six o'clock before the doctors signed in at 7:00." He acknowledged that this was "sometimes" irrespective of the time they actually arrived.

Respondent acknowledged that he had pled guilty to coming in late and that on those days Ryan had signed him in. Respondent denied that any of these latenesses impaired his ability to perform his job. He had never been placed in the minor violation log or given a command discipline because of his latenesses.

To the best of his knowledge, Smith was aware that he had been late anywhere from 29 to 165 minutes. Respondent stated that on more than one occasion he had handed Smith a "28" for his lateness which had been handed back to him. He said that it was his understanding that Smith did not want to bother with the paperwork.

Respondent noted that at that time, he was on modified assignment and facing a possible felony indictment. He said, "[T]o be honest signing in late, 28's was the furthest thing from my mind." He went on to point out that he was facing several years in prison for something he did not do and that he had spent a lot of money on his defense. He said,

“So I stepped into an office that was functioning for many years before I came there, and it’s still functioning after I’m gone.”

Respondent said that he was transferred some time around Labor Day 2010.

When asked if the same sign-in procedures existed after he left, Respondent stated that there was more scrutiny but that “not everything changed.” When asked what didn’t change, Respondent testified, “Cops, sick cops coming in, appointments being changed.” He explained that there were numerous reasons an appointment could be changed and that the officers had the authority to make those changes if the officer was not under specific monitoring or in chronic status or a discipline problem. If they were aware of those circumstances, they would go the sergeant who would call the main Medical Division office in LeFrak City and speak to a supervisor there.

He said the timekeeper for the Bronx medical office was a civilian working at the main office in LeFrak City. He said that after his official Department interview he was advised that the entire time involved in this case was being deducted; both overtime and lateness time.

Respondent agreed that on the days he was late, he had been signed in by Ryan. Respondent also recalled being contacted by Officer Laurene Tumio. He had met her prior to that incident. He said that on the day in question he had been told that she had an urgent doctor’s appointment at the same time as her appointment with the Bronx medical office. He said the visit to the Bronx office was not for an examination but for her to update the office on her outside medical treatment. Respondent explained, “She had asked me if I could return her to work and she would go back out sick in the future when certain test results were coming back.”

Respondent said he told Tumio there was no problem and returned her to work at a date in the future. He did not speak to a supervisor about this. Again Respondent explained:

[S]he wanted to go back to work and I knew that she was supposed to see the doctor but I didn't feel that I was doing anything wrong by allowing her to just go back to work. I wasn't trying to keep her out of work.

Respondent noted that during his official Department interview he admitted to all of the dates charged and that he fully cooperated with the investigation.

On cross-examination, Respondent conceded that he did not talk about further misconduct at the Bronx medical office because the subject did not come up. He agreed that at that interview he did not discuss the fact that this practice was sanctioned by his supervisor. He agreed that he is aware that he is supposed to report misconduct to the Internal Affairs Bureau even if he had a pending investigation with the Manhattan District Attorney's office. Respondent agreed that he had not previously reported the misconduct to Internal Affairs. He agreed that he never put this information in writing or sent a letter to Chief Campisi.

Respondent agreed that it was possible that he, and not Ryan, had made three of the false entries in sign-in log.

Respondent agreed that the investigation had started on August 26, 2010 the day he had signed out early. Respondent agreed that Lieutenant Dorn, the integrity control officer, had signed in at 1330 hours but Respondent had already signed out at 1423 on that date.

Respondent explained that he did not sign out early on purpose. He stated:

I think I meant to sign out at 1223 it was a discussion me and Lieutenant Dorn had, and he believed what I had stated to him because people still were scheduled to go to meal and sign out for meal and it's just something I wouldn't have done knowing people are signing in and out of this log within, you know, possibly minutes of myself so – and you know, he believed me but, you know, I signed what I signed.

Respondent agreed that he had said that Smith had approved of this practice and that Smith routinely asked people to sign others in and out, “it wasn't just in regards to ourselves.”

With regard to changing medical appointments, Respondent explained that there were two types of visits. There were routine visits every two weeks or every month depending on the severity of the injury or illness and there were forced ordered visits by absence control or by a supervisor. He said they would not change these ordered visits.

Respondent agreed that he has no medical training. He stated that with regard to Tumio he had simply returned her to work but conceded that in order to be returned to work she would have had to appear for her appointment. He noted that the District Surgeon was not the only one who returned officers to work and that sometimes supervisors not doctors would, for various reasons, give that order.

He said he assumed that Tumio had been telling him the truth but he did not really know. He agreed that she had said that after being returned to work she would go sick again depending on the results of some tests. He said she would not have gotten any benefit by going back to work but there was a negative possibility that she would be deemed chronic.

Respondent denied that when he made the entry returning Tumio to work he would have had to have represented that she had seen a district surgeon. He said when he

made the computer entry of the diagnosis he did it under his own name pursuant to the practice. Respondent agreed that on some days when he was late he would telephone Ryan.

On questioning by the Court, Respondent indicated that the New York County District Attorney's investigation was into something that allegedly occurred while on duty and that the charge had been [REDACTED]. He said the district attorney threatened indictment and that they had wanted him to take a plea and resign, which he turned down. He said he was placed on modified assignment the day after his private attorney turned down the district attorney's offer.

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974). Respondent was appointed to the Department on December 8, 1997. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

The Department has recommended a penalty involving the forfeiture of 45 vacation days.

Respondent has acknowledged, through his plea, that he engaged in misconduct. Because a number of dates were involved, and to ensure that Respondent knew what charges he was admitting to, I asked the assistant Department Advocate to provide specific information before the plea was entered and accepted.

Specification Nos. 1, 2 & 3 involve 12 different occasions on 11 different dates. On each of the dates Respondent was late for work at the Bronx Medical Division office. On one of the dates Respondent also left early. Specification No. 1 deals with false entries in the Sign-In log on those dates, Specification No. 2 deals with the fact that he received payment for time he was not at work and Specification No. 3 deals with the failure to submit a Leave of Absence Report for the lost time. The dates noted were:

- June 7, 2010 - 39 minutes
- June 8, 2010 – one hour and 31 minutes.
- June 9, 2010 - 52 minutes
- June 17, 2010 29 minutes
- June 22, 2010 - one hour, 5 minutes
- July 13, 2010 - one hour, 14 minutes
- July 14, 2010 - 2 hours, 1 minute
- July 20, 2010 - 2 hours 46 minutes*
- July 21, 2010 – one hour
- August 24, 2010 – one hour, 45 minutes*
- August 26, 2010 35 minutes (start of tour)
- August 26, 2010 53 minutes (end of tour).

(Asterisk denotes that there is an overtime issue as well on that date).

Specification Nos. 4 and 5 deal with improper use of overtime on July 20, 2010 and August 24, 2010. Specification No. 4 addresses the fact that Respondent applied for and received overtime on days in which he was late for work and Specification No.5 addresses the fact that Respondent was improperly paid for two hours and seven minutes of overtime on those dates.

Specification No. 6 deals with the fact that Respondent improperly put another member of service back to work full duty from sick leave, falsifying Department records in the process. What happened, as explained by the Advocate, again before Respondent's plea was entered, was that an Officer Tumio failed to appear for a scheduled appointment. After speaking with her, Respondent noted in Department records that she

had appeared for appointment and was to be returned from her "sick" status to limited duty status several days hence. The Advocate noted that Tumio had not seen a District Surgeon which would have been necessary to make such a status change. Respondent in his testimony denied that such a change in status could only been done by the district surgeon but conceded that a supervisor would have to be involved and that he had no authority to make the duty status change.

Reviewing Respondent's testimony I can see nothing that would mitigate the seriousness of these charges. Counsel has argued that the Bronx Medical Division office was improperly run and others were and are engaged in misconduct there. This is not a mitigating factor. The fact that others engaged in misconduct does not justify misconduct by Respondent. Indeed if misconduct was occurring, as a police officer, Respondent would have had an obligation to report it.¹

There is one sympathetic factor in this record and it merits mention. It has to do with how Respondent came to be assigned to the Bronx Medical Division office in the first place. That assignment resulted from Respondent being placed on modified assignment.

Respondent was placed on modified assignment based on allegations that he had committed [REDACTED]. He was investigated by the New York County District Attorney's office. In the end neither criminal nor Departmental charges were brought against him and the matter is apparently closed.

¹ Ryan pled guilty to improperly signing another member of service in or out of work and forfeited 15 vacation days (Case No. 2011-3501 approved February 22, 2012). Tumio pled guilty to her conduct in relation to this Respondent and other related misconduct. She forfeited 30 vacation days (Case No. 2011-3502 approved December 17, 2012).

Respondent testified that he had to hire an attorney and also experienced great anxiety during the period of time that he was under investigation.

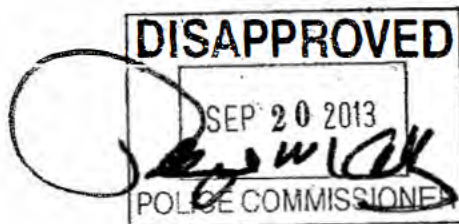
As unfortunate as that situation is, it is not a justification for the misconduct herein nor is it a mitigating factor.

Considering the seriousness of the misconduct I recommend a penalty involving the loss of 45 vacation days.

Respectfully submitted,

 FOR MRK.

Martin G. Karopkin
Deputy Commissioner - Trials



POLICE DEPARTMENT
CITY OF NEW YORK

From: Deputy Commissioner Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER DONALD HOOK
TAX REGISTRY NO. 920400
DISCIPLINARY CASE NO. 2011-3500

In 2011 and 2012, Respondent received an overall rating of 4.0 "Highly Competent" on his annual performance evaluation. He was rated 3.0 "Competent" in 2010. He has been awarded five medals for Excellent Police Duty and one for Meritorious Police Duty. [REDACTED]

[REDACTED]. Respondent has no prior formal disciplinary record.

For your consideration.

 FORMER.

Martin G. Karopkin
Deputy Commissioner Trials